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October 18, 2022

VIA E-MAIL

Matthew Podolsky, Assistant U.S. Attorney
Alex Rossmiller, Assistant U.S. Attorney
Andrew Thomas, Assistant U.S. Attorney
1 Saint Andrews Plaza
New York, New York 10007

**Re: United States of America v. Hwang, *et al.*,
No. 22-cr-240-AKH**

Dear Matt, Alex and Andrew:

We write on behalf of Mr. Hwang concerning an issue related to the Government's document production in this matter. Specifically, it appears, based on our continuing review, that certain bank counterparties (the "Banks") produced trading data to the Government that is not part of the Government's production. For each of the four Banks referenced below, Bates ranges identified in a production cover letter(s) submitted by the Bank to the Government appear to be missing from what the Government has produced to us:

- Deutsche Bank: A cover letter to the CFTC dated August 19, 2021 (SDNY_P003_0000000191) enclosed documents marked **DB ARCH CFTC 00016000-17246** that evidently comprise account activity records and trade data related to Archegos, account statements related to Archegos, and P&L records.
- Mizuho: Six separate cover letters to the U.S. Attorney's Office, dated December 3, 2021, January 5, 2022, February 11, 2022, February 18, 2022, April 13, 2022, and April 27, 2022 (SDNY_003_00000506, 508, 514, 516, 518, and 520) enclosed mostly unspecified documents marked **MIZU-0000001 – 470** and **MIZU-0043767 – 48050** in response to a grand jury subpoena dated November 17, 2021.
- Mitsubishi UFJ: Two separate cover letters to the CFTC, dated September 9, 2021, and October 5, 2021 (SDNY_P003_0000000301 and 303) enclosed documents marked **MUFG-Archegos-CTFC-007647, 7660 – 7665** (trading data reflecting hedge trades undertaken in connection with the Archegos swaps); **MUFG-Archegos-CTFC-0007658 – 7659** (additional data related to Archegos swaps, including net risk exposure reports and net position records); and **MUFG-Archegos-CTFC-0007666 – 7670** (trading data reflecting swaps entered into with Archegos). In addition, a cover letter to the SEC dated October 5, 2021 (SDNY_P003_0000000500) enclosed documents marked **MUFG-Archegos-SEC-0007729 – 7733** that evidently comprise trading data reflecting swaps with Archegos.

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- UBS: A cover letter to the U.S. Attorney's Office dated April 22, 2022 (SDNY_003_00000689) enclosed documents marked **UBSARCH0245893 – 245925** that evidently comprise trade execution data responsive to a grand jury subpoena issued on March 26, 2022. In addition, an email to the U.S. Attorney's Office dated March 16, 2022 (SDNY_003_00000686) attached dark pool trade execution data for Archegos in two separate spreadsheets, Bates numbers for which are not apparent.

We assume that these documents have been withheld in error—indeed, they appear to be directly relevant and possibly even exculpatory—and thus we ask that you please produce them at your earliest opportunity.

Additionally, we note that the Archegos-related trading data that the Government obtained from the Banks and has produced to us provides varying levels of detail. For instance, at least one Bank (Goldman Sachs) appears to have provided only monthly position reports. Other Banks provided daily trade data, but some without differentiating between cash and swap trades, others without including order-level transaction times and/or lots, and, in at least one case, without specifying the security being traded. Moreover, we have not located any trade data at all from Bank of Montreal, Jefferies, or Wells Fargo. Accordingly, please clarify whether the Government has provided all trading data in its possession, and, if there is more, please supplement the production accordingly. Of course, we reserve all of Mr. Hwang's rights to seek relief from the Court, including, if necessary, subpoenas to the Banks to compel production of a more complete set of trading data.

One final issue: we have yet to receive a response to our letter dated August 24, 2022, that addressed both the Government's bill of particulars and anticipated response to our *Brady* letter of July 19, 2022. Specifically, we identified several deficiencies in the information set forth in your August 18, 2022 letter (ECF No. 38) regarding certain alleged misrepresentations and asked whether you intend to provide a bill of particulars identifying each alleged manipulative or otherwise unlawful trade, including each time Mr. Hwang's trading supposedly created an artificial price. We also sought clarification as to the timing of the Government's production of *Brady* material; currently, we understand that it will be provided by this Thursday, October 20, 2022. Please advise whether that remains the case. Of course, we remain ready and willing to meet and confer with you on these issues in hopes of avoiding having to seek the Court's intervention.

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Thank you for your kind consideration of these matters. We look forward to your response.

Respectfully yours,

s/ Lawrence S. Lustberg

Lawrence S. Lustberg

cc: Mary E. Mulligan, Esq.
Timothy M. Haggerty, Esq.